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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/720,239 02/12/01 OHMSTEDE

H 449122001400

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PM82/1023

EXAMINER

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ART UNIT	PAPER NUMBER
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3617
DATE MAILED:

10/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/720,239

Applicant(s)

OHMSTEDT, HARTWIG

Examiner

Mark T. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because it does not identify inventor's citizenship in English.

2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims appear to be results of a direct translation from a foreign document; wherein, the language are narrative in form, and the steps of the claimed method are not clearly defined to present method claims in accordance to U.S. practice. Applicant is suggested to rewrite the claims in the manner of U.S. patent claims to clearly and positively define the steps of the method being claimed.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 (as best can be determined) are rejected under 35 U.S.C. 103(a) as being unpatentable over German reference no. 4406720 in view of Kobayashi (US 5,777,451).

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The German reference discloses a train control system including a method of operation similar to that recited in the claims, except that the vehicle are not arranged to be virtually coupled as defined in the claims.

Kobayashi discloses a vehicle control system including a method of virtually coupling vehicles 30,31 into vehicle groups for enhancing the communication between a central control and the vehicle groups; wherein, the spacing between vehicles 30,31 in the vehicle groups is controlled by vehicle base distance monitoring systems, and the vehicles in the groups are independent from each other.

In view of Kobayashi, it would have been obvious to one skilled in the art to apply a concept of vehicle control, similar to that taught by Kobayashi, to the vehicle control of the German reference so as to enhance the efficiency of the communication between the control center and the vehicles.

Regarding the safety measures recited in claim 4, it does not present a patentable advance as these measures are merely inherently required steps toward providing adequate safety for a public transportation system.

Regarding claim 5, it is the examiner's position that the concept of controlling vehicles either individually or in groups of vehicles is known in either in the German reference or in Kobayashi; and as a matter of common knowledge of one skilled in the art to combine the capabilities of these known systems into the train control system of the German reference, so as to increase the control flexibility in the system for handling vehicles under varieties of conditions.

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Regarding the features of claims 6-9, they appears to be merely steps among varieties of obvious solutions to basic technical problems and to inherent safety concerns; in which the solutions would require no more than common logics of one skilled in the art. Accordingly, it would have been obvious to one skilled in the art to apply his common logics in constructing the train control system of the German reference, as modified, to achieve an operable system with adequate safety, by including the variations of obvious features of claims 6-9 so as to meet the industry's expectations and safety standards.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should further consider the structures of Murata, Polivka, Auer, Moehlenbrink, Petit, Newman, Heggstad, Rudershausent, and Hungate.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 703-308-3663. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Mark T. Le
Primary Examiner
Art Unit 3617

mle
October 17, 2001